

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:	AVALONE et al.	)	Confirmation No.:	6897
		)		
Application No.:	09/828,444	)	Group Art Unit:	3621
		)		
Filed:	April 6, 2001	)	Examiner:	P. Elisca

For: METHODS AND SYSTEMS FOR PROVIDING PERSONALIZED INFORMATION  
TO USERS IN A COMMERCIAL ESTABLISHMENT

**REPLY BRIEF**

**MAIL STOP APPEAL BRIEF-PATENTS**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This Reply Brief is being submitted in accordance with 37 CFR 41.41. The Reply Brief is in response to Examiner's Answer mailed on January 10, 2008, which was intended as a response to the Revised Appeal Brief filed on August 31, 2007, which replaced the Appeal Brief submitted on July 5, 2007. The Notice of Appeal (with the requisite fee) and the Pre-Appeal Brief Request for review were submitted on February 2, 2007.

Applicant incorporates by reference the arguments set forth in Applicant's Revised Appeal Brief filed on August 31, 2007.

Applicant hereby authorizes any fees or other charges necessary for consideration of this appeal to be charged to Deposit Account No. 50-1059.

**STATUS OF CLAIMS**

As indicated in the Revised Appeal Brief filed on August 31, 2007, claims 1-43 have been canceled, claims 44-80 are rejected and claims 81 and 82 were not been examined or addressed by the Examiner prior to the filing of the Revised Appeal Brief. Claims 44-82 were appealed. Examiner responded to Applicant's Revised Appeal by continuing to assert rejections of claims 44-80 and adding new rejection of claim 81 and claim 82.

**GROUND S OF REJECTION TO BE REVIEWED ON APPEAL**

(as presented in Examiner's Response to Applicant's Revised Appeal Brief)

**Ground 2.** The failure of the Examiner to examine or address claims 81 and 82, which claims have not been rejected nor allowed by the Examiner.

- a. Whether Examiner's rejection of claim 81 and claim 82 in the response to the Revised Appeal Brief, following Examiner's failure to reject the claims during prosecution, was proper.

**Ground 1.** Whether claims 44-80 are unpatentable under 35 U.S.C. § 103(a) over Anandan et al. (U.S. Patent Application Publication No. 2002/0062251) in view of Herrod et al. (U.S. Patent No. 6,405,049). It is noted that in the Final Office Action dated November 2, 2006, the Examiner incorrectly identified Anandan et al. as having a publication number of "U.S. PG Pub No. 2003/0021242."

- c. Whether Examiner's rejection of claim 48, finding that the user interface or a corresponding portable display unit was disclosed by paragraph [0026], [0027], [0037], [0043], and [0063] of the Anandan application, was proper.
- e. Whether Examiner's rejection of claim 76 and claim 77, finding that the personalized shopping list in claim 76 and claim 77 was disclosed by paragraphs [0003], [0005], and [0007] of the Anandan application.

**ARGUMENT**

1. Discussion of Ground 2 (Examiner's Response "a")

Examiner's rejection of claim 81 and 82 is improper. Examiner rejected claim 81 and, in part, claim 82 based upon Examiner's argument that the system of claim 81 and the method of claim 82 are disclosed by the Anandan application. The system of claim 81 includes a system for providing personalized information to a user in a commercial establishment. The portable display unit has a unique identifier allowing specific personalized information, such as a personalized shopping list, to be generated and then transmitted to the portable display unit. The method of claim 82 includes performing all of the actions performed by the system of claim 81 and includes providing a plurality of portable display units for use by a plurality of users in a commercial establishment wherein the personal information; storing information related to the user in at least one database; and generating personalized information for a user. The Examiner argues that the elements of system in claim 81 and the elements of the method of claim 82 (in light of Herrod et al. (U.S. Patent No. 6,405,049)) are disclosed by Anandan et al. (U.S. Patent Application Publication No. 2002/0062251) abstract and paragraphs [0003], [0007], [0009], [0011], [0012], [0013], [0026], [0027], [0028], [0035], [0037], [0041], [0043], [0044], [0062], [0065], and [0069]. However, Applicant cannot identify any description or discussion in the Examiner's cited passages that relates to the limitations recited in claims 81 and 82. None of these cited passages disclose a system or method providing any personalized information to a portable display unit. Furthermore, none of these cited passages disclose a system or method generating and providing a personalized shopping list.

Examiner argued that figure 1 in the Anandan application discloses providing personalized information to a user in a commercial establishment; however, the only information provided to a user is a survey. No personalized information or personalized shopping list is disclosed in figure 1.

In response to Examiner's reliance upon the Herrod reference to disclose a plurality of portable display units for use by a plurality of users, Applicant incorporates all arguments in Applicant's Revised appeal brief, and submits that claim 82 is allowable. Furthermore, since the

Anandan application does not disclose all of the limitations recited in claim 81 or claim 82, in addition to incorporating by reference all arguments in Applicant's Revised Appeal Brief, Applicant submits that claim 81 and claim 82 are distinguishable from Anandan and are therefore allowable.

## 2. Discussion of Ground 1 (Examiner's Response "c")

Examiner's rejection of claim 48 is improper. The system of claim 48 includes a user identification system with a user interface corresponding to the portable display unit. The user interface is configured for a user to enter a personal identification number and associated password into the user's portable display unit. Examiner argues that the limitation that the "user identification system includes the user interface of a corresponding portable display unit" is disclosed by paragraphs [0026], [0027], [0037], [0043], and [0062] of the Anandan application. Even applying Examiner's narrow interpretation of claim 48 (the interpretation should include broader limitations than the Examiner expressed), the Anandan application does not disclose the system of claim 48. Paragraph [0026] does not disclose the system of claim 48 because paragraph [0026] discloses a location-tracking (not calculating) system. No user interface is disclosed in paragraph [0026]. Paragraph [0027] does not disclose the system of claim 48 because paragraph [0027] discloses using Radio Frequency Identification technology for monitoring and tracking movement of various items. No user interface is disclosed in paragraph [0027]. Paragraph [0037] does not disclose the system of claim 48 because paragraph [0037] discloses a system or a method relating to the collection demographic data prior to receiving a transponder tag. No user interface is disclosed in paragraph [0037]. Paragraph [0043] does not disclose the system of claim 48 because paragraph [0043] discloses survey pages sent to consumers. No user interface is disclosed in paragraph [0043]. Paragraph [0062] does not disclose the system of claim 48 because paragraph [0062] discloses a method of notifying consumers through standard paging services. No user interface is disclosed in paragraph [0062]. Thus, none of the cited paragraphs in the Anandan application disclose a "user identification system includ[ing] the user interface of a corresponding portable display unit" because none of the paragraphs disclose a user interface let alone a user interface configured for a user to enter a

personal identification number and associated password into the user's portable display unit. As such, the Examiner is improperly relying upon paragraphs [0026], [0027], [0037], [0043], and [0062] of the Anandan application to teach the claim limitations of the present application, as the paragraphs fail to disclose the information alleged by the Examiner.

Therefore, since Anandan does not teach or suggest all of the limitations recited in claim 48, in addition to incorporating by reference all arguments in Applicant's Revised Appeal Brief, Applicant submits that claim 48 is distinguishable from Anandan and is therefore allowable.

### 3. Discussion of Ground 1 (Examiner's Response "c")

Examiner's rejection of claim 76 and claim 77 is improper. The method of claim 76 relates to transmitting personalized information to a personal display unit wherein the information transmitted includes a personalized shopping list. Examiner argues that "Anandan disclose [the] limitation [of a personalized shopping list] in paragraph [0003], (shopping behavior and preferences or shopping list), [0005] and [0007], shopping habits." As Applicant interprets Examiner's argument, Examiner is incorrect because no part of the Anandan application even mentions a list let alone disclosing a personalized shopping list. Paragraph [0003] does not disclose a personalized shopping list because paragraph [0003] is limited to the categorizing of consumer purchases and shopping behavior. Paragraph [0003] further discloses that this information relates to service levels associated with finding desired items in stock the availability and helpfulness of in-store service staff, and the amount of time it takes to complete a purchase at a checkout counter. No personalized communications like a shopping list are suggested. Paragraph [0005] similarly does not disclose a shopping list. Paragraph [0005] discusses unattractive methods for monitoring consumer behavior; providing a personalized shopping list is not one of the unattractive methods of monitoring consumer behavior disclosed by paragraph [0005]. Paragraph [0007] does not disclose a personalized shopping list. Paragraph [0007] discloses obtaining accurate assessments of customer satisfaction and consumer shopping habits. Nowhere in paragraph [0007] is there a disclosure of a method of providing a personalized shopping list. As such, the Examiner is improperly relying upon paragraphs [0003],

[0005], and [0007] of the Anandan application to teach the claim limitations of the present application, as the paragraphs fail to disclose the information alleged by the Examiner.

The method of claim 77 includes transmitting generated personalized information to the portable display unit. The information transmitted includes information about products on the personalized shopping list that are in the proximity of the portable display. While incorporating all of the above arguments relating to the method of providing a personalized shopping list, Applicant also asserts that the only personalized information provided in the Anandan application are surveys provided to consumers.

Therefore, since Anandan does not teach or suggest all of the limitations recited in claim 76 and claim 77, in addition to incorporating by reference all arguments in Applicant's Revised Appeal Brief, Applicant submits that claim 76 and claim 77 are distinguishable from Anandan and are therefore allowable.

**SUMMARY AND CONCLUSION**

In view of the above, Applicant respectfully requests a favorable action on this pending Appeal and withdrawal of the outstanding rejections. As a result of the remarks presented herein, Applicant respectfully submits that claims 44-82 are not rendered obvious by Anandan and Herrod and thus, are in condition for allowance.

The Commissioner is authorized to charge any fees determined to be due to the undersigned's Account No. 50-1059.

Respectfully submitted,  
MCNEES WALLACE & NURICK LLC

/Andrew L. Oltmans/

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